

IN THE
SUPREME COURT OF INDIANA
ORDER ADOPTING PROGRAM GUIDELINES FOR THE
JUDGES AND LAWYERS ASSISTANCE PROGRAM

Under the authority vested in this Court pursuant to Article 7, Section 4 of the Constitution of Indiana to exercise original jurisdiction in the admission to the practice of law and the discipline of those admitted, and pursuant to Ind.Admission and Discipline Rule 31, *Program Guidelines* for the *Indiana Judges and Lawyers Assistance Program* are adopted to read as follows.

PROGRAM GUIDELINES

Judges and Lawyers Assistance Program

The Indiana Judges and Lawyers Assistance Program (JLAP), established pursuant to Indiana Admission and Discipline Rule 31, provides assistance to judges, lawyers, and law students who suffer from physical or mental disabilities resulting from disease, chemical dependency, mental health problems, or age that impair their ability to practice or serve. JLAP neither engages in punishing nor disciplining members nor does it have the power or authority to do so. These policies and procedures have been adopted by JLAP and constitute guidelines approved by the Committee.

Section 1. Definitions.

The following terms or phrases shall have the meanings assigned in this section.

- (a) Chairperson—the person who is currently holding the office of chairperson of the committee.
- (b) Clinical director—clinical director of JLAP
- (c) Committee – the body comprised of the persons appointed by the Supreme Court of Indiana to administer JLAP pursuant to Admis.Disc.R. 31 § 1.
- (d) Confidential information—all information, whether oral, written, or electronically acquired, received by, or held in the possession of a representative, which in any manner (including identity) relates to a member who is impaired, believed to be impaired or possibly has an impairment.
- (e) Contract participant—a participant who has entered into a formal, written agreement with JLAP.
- (f) Court—the Supreme Court of Indiana

- (g) Director—executive director of JLAP
- (h) Impaired—having a physical or mental disability resulting from disease, chemical dependency, mental health problems, or age that could affect a member’s ability to practice law or serve as a lawyer or judge.
- (i) Independent source—any person consulted to verify a JLAP contact who did not initiate the contact.
- (j) JLAP—the Indiana Judges and Lawyers Assistance Program as established pursuant to Admis.Disc.R. 31, its staff and volunteers.
- (k) Members or members of the bar—persons who are judges, lawyers, law students, or have applied for admission to the Indiana bar.
- (l) Monitor—Volunteer who oversees a contract participant’s compliance with a JLAP monitoring agreement.
- (m) Monitoring agreement—a formal written agreement between a participant and JLAP that establishes the obligations of the participant and provides for the monitoring of the participant’s compliance.
- (n) Official referral—referral of a member to JLAP by:
 - 1) The Indiana Supreme Court Disciplinary Commission;
 - 2) The Indiana Board of Law Examiners;
 - 3) The Indiana Commission on Judicial Qualifications; or
 - 4) Any Indiana law school administration as part of its disciplinary process.
- (o) Participant—any member who is referred to JLAP and, as a result thereof, receives a contact or communication from a representative.
- (p) Permitted disclosures—disclosure of confidential information
 - 1) Permitted or required pursuant to Rule 31 § 9(c);
 - 2) With the written consent of the participant or contract participant to whom such confidential information relates; or
 - 3) By or among representatives to carry out or accomplish the purposes of JLAP.
- (q) Representative—the director, clinical director, any member or employee of the committee or any volunteer.
- (r) Self-referral—a member’s direct contact with a representative to consider becoming a participant in JLAP not in furtherance of an official referral or a third party referral.
- (s) Staff—any and/or all of the employees of JLAP.
- (t) Third party referral—any referral of a member to JLAP other than an official referral or self-referral.
- (u) Volunteer—any person (including members of the committee) who has entered into an agreement with JLAP to assist in providing services in accordance with JLAP policies and procedures including completing any required application process.

Section 2. Purpose of JLAP.

Pursuant to Admis.Disc.R. 31 §2, JLAP was established to assist impaired members in recovery; to educate the bench and bar; and to reduce the potential harm caused by impairment to the individual, the public, the profession, and the legal system.

These guidelines have been adopted with these purposes in mind. The work of JLAP is designed to be educational, confidential, and responsive to the special situations faced by impaired members of the legal profession.

The JLAP committee and the executive director may take any other action required to fulfill, yet remains consistent with, the stated purpose.

Section 3. Organization.

JLAP was established pursuant to Admis.Disc.R. 31. The Committee consists of fifteen (15) members appointed by the Court: seven (7) practicing attorneys, five (5) judges, one (1) law student, and two (2) judge(s), lawyer(s), or law student(s). The director operates under the direction of the committee. The clinical director, staff and volunteers operate under the direction of the director.

Section 4. Policies.

- (a) JLAP designs and delivers programs to raise the awareness of the legal community about potential types of impairment and the identification, prevention and available resources for treatment and/or support.
- (b) JLAP works toward increasing the likelihood of recovery by encouraging early identification, referral and treatment.
- (c) Any person may report to the director, clinical director, or any member of the committee that a particular member of the bar needs the assistance of JLAP.
- (d) JLAP encourages contact by any means; responses will be prioritized as follows: walk-in, telephone call, e-mail, and written communication.
- (e) Neither JLAP, nor any representative, in their role as a volunteer, engages in the practice of law while fulfilling their JLAP responsibilities. Upon admission to inpatient or residential treatment, or with a physical disability case, JLAP may:
 - 1) work with the participant to find friends and/or colleagues to assist with the law practice;
 - 2) work with the relevant local and state bar association committees to assist with the practice;
 - 3) should no other arrangements be possible, attempt to facilitate movement of a participant's case files to the respective clients upon receipt of written permission from the participant.

Section 5. Referral Procedures

(a) General Procedures

The state will be divided into geographical areas and a committee member or other designated representative shall serve as the primary contact for each area.

(b) Self-Referrals and Other Referrals

- 1) When the participant is a self referral, the following procedures apply:
 - i. JLAP may conduct an initial consultation to determine the nature of the participant's impairment;
 - ii. where appropriate, JLAP may make a referral to a qualified medical

- and/or clinical resource for further evaluation, assessment, and/or treatment;
 - iii. if appropriate, JLAP may assist in the development of a treatment plan, which may include participation in JLAP;
 - iv. with the participant's permission, a volunteer will be appointed to provide ongoing support.
- 2) When the member is referred by a third party the following procedures apply:
- i. JLAP will obtain detailed information from the referral source regarding the nature of the impairment, the referral source's relationship to the member, and the circumstances giving rise to the referral. The identity of the referral source shall remain confidential unless the referral source instructs otherwise.
 - ii. JLAP may conduct further investigations to verify the circumstances that led to the referral by contacting independent sources to determine whether the member may be impaired.
 - iii. Any independent sources shall be approached in a manner to preserve, as far as possible, the privacy of the member.
 - iv. If it is determined the member may be impaired, JLAP will determine how the member will be approached with special attention given to involving local volunteers and/or local members of the bar who may already be involved in the case.
 - v. If the referred member is a judge, every effort shall be made to include at least one judge as a volunteer in the case.
- 3) If the impaired member agrees to treatment, or other levels of participation in JLAP, further assistance may include:
- i. consultation with the participant, in-house assessment/evaluation, or referral for appropriate assessment/evaluation;
 - ii. assistance in locating treatment resources; and
 - iii. assistance in development of continuing care including support and referral to JLAP.
- 4) The director may terminate JLAP's involvement in any case at any time should it be determined that the member does not comply or refuses to participate and will not likely benefit from JLAP services at that time.
- (c) Official Referrals
- 1) Upon receipt of an official referral for assessment/evaluation, JLAP will:
- i. Determine if all appropriate releases and/or authorizations have been signed and obtained.
 - ii. Determine whether the requested assessment/evaluation will be done in house, referred out or a combination.
 - iii. Contact the official referral source for background information and direction, if necessary.
 - iv. Coordinate the assessment process with selected provider, participating as deemed appropriate on a case-by-case basis.
 - v. Release information and/or the final assessment/evaluation as allowed by written release.
- 2) Upon receipt of an official referral for a monitoring agreement JLAP will:

- i. Determine if all appropriate signed releases/authorizations have been obtained.
- ii. Review existing assessment(s) and/or determine whether initial or additional assessment(s) are necessary.
- iii. Develop a monitoring agreement.
- iv. Select and provide a monitor.
- v. Meet with the participant, his/her attorney if appropriate, and the monitor prior to execution of the agreement to explain JLAP's role and the agreement terms and conditions.
- vi. Report to the official referral source according to the terms of the referral and the monitoring agreement.

Section 6. Services.

- (a) Any member is eligible for assistance and participation in JLAP. JLAP services will be provided without charge for initial consultation, in house assessment, referral, peer support, and monitoring services.
- (b) Referrals for medical and/or clinical evaluations, treatment, therapy and aftercare services will be provided; engagement of, and payment for, such services is solely the responsibility of the participant.

Section 7. Treatment – Medical Assistance.

- (a) JLAP endeavors to provide a network of therapeutic resources that includes a broad range of health care providers, therapists, and “self-help” support groups. JLAP will maintain a statewide list of available providers.
- (b) With the written consent of the participant, JLAP may maintain contact with, and receive information from, the treatment provider. JLAP may remain involved in support during treatment, and shall endeavor to provide peer support and aftercare assistance in early recovery.
- (c) In cases where it is determined the participant is not in need of inpatient or residential treatment, JLAP may provide referrals to outpatient counseling resources and self-help groups such as 12-step programs.

Section 8. Confidentiality.

- (a) JLAP and its representatives will observe anonymity and confidentiality at all times. JLAP is an autonomous program, independent from the administrative offices of the Court or any other board or disciplinary organization, agency or authority.
- (b) No disclosure of confidential information will be made by any representative except for permitted disclosures and those identified in Ind. Professional Conduct Rule 8.3.

Section 9. Role of Program Volunteers.

JLAP will maintain a statewide network of volunteers to assist the committee in carrying out the purposes of JLAP. Volunteers fulfill the following functions:

- (a) Assist in investigations, assessments, interventions, monitoring and support;
- (b) Appear on behalf of contract participants as witnesses at the discretion of the director;
- (c) Attend ongoing training on topics that enhance their ability to assist impaired members of the legal profession; and
- (d) Disseminate information about JLAP including the offer of presentations to local and specialty bars.

These amendments shall take effect April 1, 2002.

The Clerk of this Court is directed to forward a copy of this order to the Clerk of each Circuit Court in the state of Indiana; Attorney General of Indiana; Legislative Services Agency and its Office of Code Revision; Administrator, Indiana Supreme Court; Administrator, Indiana Court of Appeals; Administrator, Indiana Tax Court; Public Defender of Indiana; Indiana Supreme Court Disciplinary Commission; Indiana Supreme Court Commission for Continuing Legal Education; Indiana Board of Law Examiners; Indiana Judicial Center; Division of State Court Administration; the libraries of all law schools in this state; the Michie Company; and the West Group.

The West Group is directed to publish this Order in the advance sheets of this Court.

The Clerks of the Circuit Courts are directed to bring this Order to the attention of all judges within their respective counties and to post this Order for examination by the Bar and general public.

DONE at Indianapolis, Indiana, this _____ day of December, 2001.

Randall T. Shepard
Chief Justice of Indiana

All Justices concur.

